

New Jersey Health Care Facilities Financing Authority

Standard Terms and Conditions

By submitting a proposal in response to the Request for Proposal ("RFP") for services, the bidder certifies that it understands and agrees that all of the following terms, conditions and definitions (collectively, "Standard Terms and Conditions") are part of any contract(s) awarded as a result of the RFP unless specifically and expressly modified by reference in the RFP or in a writing executed by an authorized officer of the Authority.

- I. **Definitions:** As used in these Standard Terms and Conditions, the following terms shall have the definitions set forth in this paragraph. These definitions shall also apply to the entire contract unless otherwise defined therein.

"Authority" means the New Jersey Health Care Facilities Financing Authority. The Authority is the intended beneficiary of the Contract.

"Authorized Officer" means (i) with respect to the Authority, the Chairman, Vice Chairman, Secretary, Treasurer, Assistant Treasurer, Executive Director or Deputy Executive Director of the Authority or such other Person who is authorized by the by-laws or any resolution of the Authority to act in such capacity.

"Bidder" means any person or entity submitting a proposal in response to the RFP to provide the Authority services specified in the RFP.

"Contract" means a mutually binding legal relationship obligating the Contractor to furnish services and the Authority to pay for them. The Contract consists of these Standard Terms and Conditions, the RFP, the proposal submitted by the Contractor, the subsequent written document memorializing the agreement (if any), any amendments or modifications and any attachments, addenda or other supporting documents of the foregoing.

The Contract and/or its terms cannot be modified or amended by conduct or by course of dealings. Thus, the "contract" does not include the aforementioned actions and such actions, or reliance thereon, afford no rights whatsoever to any party to the Contract. The Contract can only be modified or amended by a writing signed by an authorized officer of the Authority and of the Contractor.

"Contractor" means the person or entity which submits a proposal in response to the RFP and to whom (or which) the Contract is awarded.

"Request for Proposal" means a request for offers or proposals to provide the sought after services as specified herein.

"Shall" denotes a mandatory condition.

“State” means the State of New Jersey.

- II. **Applicability and incorporation of standard terms and conditions:** These Standard Terms and Conditions are automatically incorporated into the Contract unless the Contractor is specifically instructed otherwise in the RFP or in any other amendment thereto. These Standard Terms and Conditions are in addition to the terms and conditions set forth in the RFP and should be read in conjunction with the same unless the RFP specifically indicates otherwise.

III. **Contractor’s Status and Responsibilities:**

A. **Contractor’s Status:** The Contractor’s status shall be that of an independent contractor and not that of an employee of the State or the Authority. The Contractor shall not be an employee of an acute care hospital in New Jersey.

B. **Contractor’s Certification as to its Representatives:** The Contractor certifies that all representations made by it in its proposal or other related and/or supporting materials are true, subject to penalty of law. Further, the Contractor agrees that the violation of any statute or regulation related to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract may be cause for termination of the contract award. In addition, the Contractor’s violation of any statute or regulation relating to public contracts and/or its misrepresentation or concealment of any material fact in the proposal, award or performance of the Contract shall serve as a legal bar to the Contractor’s enforcement of its rights under the Contract including any and all claims at law or equity.

C. **Contractor’s Performance:** The Contractor agrees to perform in a good, skillful and timely manner all services set forth in the Contract. The Contractor has an affirmative obligation to promptly notify, in writing, the Authority of any changes in circumstances which might affect the Contractor’s ability to be awarded or to perform its obligations under the Contract.

D. **Responsibilities of Contractor:**

1. The Contractor is responsible for the quality, technical accuracy and timely completion and delivery of all services to be furnished by the Contractor under the Contract.
2. The Contractor shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its services furnished under the Contract. The acceptance or payment for any of the services rendered under the Contract shall not be construed as a waiver by the Authority of any rights under the Contract or of any cause of action arising out of the Contractor’s performance of the Contract.

3. The acceptance of, approval of or payment for any of the services performed by the Contractor under the Contract shall not constitute a release or waiver of any claim the Authority has or may have for latent defects or errors or other breaches or warranty or negligence.
 4. The Contractor's obligations under this clause are in addition to the Contractor's other expressed or implied assurances under the Contract or law and in no way diminish any other rights that the Authority may have against the Contractor.
- E. **Investigation:** By submitting a proposal in response to the RFP, the bidder certifies and warrants that it has satisfied itself, from its own investigation, of the conditions to be met and that it fully understands its obligations and if awarded the Contract agrees that it will not make any claim for, or have right to, cancellation or relief from the Contract without penalty because of its misunderstanding or lack of information.
- F. **Cost Liability:** The Authority assumes no responsibility and no liability for costs incurred by the bidder prior to the award of the Contract and thereafter only as specifically provided in the Contract.

G. Indemnity/Liability to Third Parties:

1. The Contractor shall assume all risk of and responsibility for, and agrees to indemnify, defend and save harmless the Authority, its employees and attorneys from and against any and all claims, demands, suits, actions, recoveries, judgments, liabilities and costs and expenses which may arise out of the breach of any term of the Contract or the default thereunder by the Contractor, its employees, servants or agents and on account of the loss of life, property or injury or damage to the person, body or property of any person or persons whatsoever, which shall arise from or result directly or indirectly from the services supplied under this Contract. This indemnification obligation is not limited by, but is in addition to the insurance obligations contained in this agreement.
2. The Contractor shall hold and save the Authority, its officers, agents, servants and employees, harmless from liability of any nature or kind for or on account of the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of this Contract.
3. The Contractor further agrees that:
 - a) any approval by the Authority of the work performed by the Contractor shall not operate to limit the obligations of the Contractor assumed in the Contract;

- b) the Authority assumes no obligation to indemnify or save harmless the Contractor, its agents, servants or employees for any claim which may arise out of its performance of the Contract; and
- c) the provisions of this indemnification shall in no way limit the Contractor's obligations assumed in the Contract, nor shall they be construed to relieve the Contractor from any liability, nor preclude the Authority from taking any other actions available to it under any other provisions of the Contract or otherwise at law or equity.

- H. **Availability of Records:** The Authority has the right to request, and the Contractor agrees to furnish free of charge, all information and copies of all records and documents which the Authority requests. The Contractor shall allow the Authority to visit the office(s) of the Contractor periodically, upon reasonable notice, in order to review any document related to the Contract or to otherwise monitor work being performed by the Contractor pursuant to the Contract. Any failure by the Contractor to maintain or produce such records or to otherwise cooperate with the Authority may be, at the Authority's discretion, cause for termination of the contract award and/or suspension or debarment of the Contractor from the Authority.
- I. **Data Confidentiality:** All data not otherwise publicly available contained in documents supplied by the Authority or the State after the award of the Contract, any data not otherwise publicly available gathered by the Contractor in fulfillment of the Contract and any analysis thereof (whether in fulfillment of the Contract or not) are to be considered confidential and shall be solely for the use of the Authority or the State. The Contractor is required to use reasonable care to protect the confidentiality of the data. Any use, sale or offering of this data in any form by the Contractor, his employees, agents, servants or assignees will be considered in violation of the Contract and will cause the information to be reported to the State Attorney General for possible prosecution. Penalties for violations of this provision include, but are not limited to, termination of the contract award and/or legal action without the Authority or the State being liable for damages, costs and/or attorney fees. The Contractor shall be liable for any and all damages arising from its breach of this confidentiality provision.
- J. **No Waiver of Warranties or Remedies at Law or Equity:** Nothing in the Contract shall be construed to be a waiver by the Authority or any warranty, expressed or implied, except as specifically and expressly stated in a writing executed by an Authorized Officer of the Authority. Further, nothing in the Contract shall be construed to be a waiver by the Authority of any remedy available to the Authority under the Contract, at law or equity except as specifically and expressly stated in a writing executed by an Authorized Officer of the Authority.

- K. **Ownership of Documents:** All documents and records, regardless of form, prepared by the Contractor in fulfillment of the Contract shall be transmitted to the Authority and shall become the property of the Authority.
- L. **Publicity:** Publicity and/or public announcements pertaining to the services being furnished pursuant to the Contract shall be approved by an Authorized Officer of the Authority.
- M. **Services to be Performed in United States:** Services under the contract, including any subcontracted services, will be performed in the United States. If, during the term of the contract, the contractor or subcontractor has declared that services will be performed in the United States and proceeds to shift services outside of the United States, the contractor shall be deemed in breach of contract, unless the State contracting agency shall first have determined in writing that extraordinary circumstances require the shift of services or that a failure to shift the services would result in economic hardship to the State of New Jersey.

IV. **Contractual Relationship:**

- A. **Assignment:** The Contractor shall not assign or transfer its obligations or rights, under the Contract without the prior written consent of an Authorized Officer of the Authority. Any assignment or transfer of the Contractor's rights under the Contract without the prior written consent of an Authorized Officer of the Authority shall not relieve the Contractor of any duty, obligation or liability assumed by it under the Contract and shall be cause for termination of the contract award.
- B. **Mergers, Acquisitions and Dissolution:**
 - 1. **Merger or Acquisition:** If, subsequent to the award of any contract, resulting from the RFP, the Contractor shall merge with or be acquired by another firm, an Authorized Officer of the Authority may terminate the contract award upon ten (10) days notice to the Contractor. In such case, the provisions of VIII. C. and D. shall apply.
 - 2. **Dissolution:** If, during the term of the Contract, the Contractor's partnership, joint venture or corporation shall dissolve, the Authority must be so notified. Upon receipt of such notice, an Authorized Officer of the Authority may terminate the Contract, in which case the provisions of VIII. C. and D. shall apply. If the Contractor is (1) a corporation, it must provide a copy of the corporate resolution to dissolve; (2) a partnership, the written statement of the partnership, general partner, receiver or custodian thereof that the partnership has dissolved; and (3) a joint venture, the written agreement of the principal parties thereto to dissolve the joint venture.
 - 3. **Notice:** The Contractor shall promptly provide notice to the Authority of all information related to its merger, acquisition and/or dissolution.

- V. **Mandatory Compliance with Law:** The Contractor's compliance with the legal requirements set forth in this paragraph as well as any other applicable laws, regulations or codes is mandatory and cannot be waived by the Authority. The list of laws, regulations and/or codes cited herein is not intended to be an exhaustive list and are available for review at the State Library, 155 West State Street, Trenton, New Jersey 08625.

A. Corporate Authority:

1. All New Jersey corporations must obtain a Certificate of Incorporation from the Office of the New Jersey Secretary of State prior to conducting business in the State of New Jersey.
2. If a bidder is a corporation incorporated in a state other than New Jersey, the Contractor must obtain a Certificate of Authority to do business from the Office of the Secretary of State of New Jersey prior to receipt of the final contract award. Within seven (7) days of its receipt of a notice of intent to award, the successful bidder shall provide either a certification or notification of filing with the Secretary of State. Further, in accordance with Public Law 2001, c. 134, which requires all contractors and subcontractors provide proof of their registration with the Department of the Treasury, Division of Revenue, the Contractor must submit a copy of their "Business Registration Certificate" to this Authority within 30 days of enactment of this Agreement. Failure to comply may result in the Authority withdrawing the notice of intent to award.
3. If the bidder awarded the Contract is an individual, partnership or joint venture not residing in this State or a partnership organized under the laws of another state, then the bidder shall execute a power of attorney designating the Secretary of State as his true and lawful attorney for the sole purpose of receiving process in any civil action which may arise out of the performance of the Contract. The appointment of the Secretary of State shall be irrevocable and binding upon the bidder, his heirs, executors, administrators, successors and assigns. Within ten (10) days of receipt of this service, the Secretary of State shall forward same to the bidder at the address designated in the bidder's proposal.

- B. **Affirmative Action:** During the performance of the Contract, the Contractor agrees to comply with the requirements of P.L. 1975, c.127 (N.J.A.C. 17:27), as follows:

The Contractor will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation. The Contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment without regard to their age, race, creed, color, national origin, ancestry, marital status, sex affectional or sexual orientation. Such action shall

include, but not be limited to the following: employment, up-grading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, sex, affectional or sexual orientation.

The Contractor will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the Authority's contracting officer, advising the labor union or worker's representative of the Contractor's commitments under the act, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Contractor agrees to comply with the regulations promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, and the Americans with Disabilities Act.

The Contractor agrees to attempt in good faith to employ minority and female workers consistent with the applicable county employment goals prescribed by N.J.A.C. 17:27-5.2 promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time, or in accordance with a binding determination of the applicable county employment goals determined by the Affirmative Action Office pursuant to N.J.A.C. 17:27-5.2, promulgated by the Treasurer pursuant to P.L. 1975, c. 127, as amended and supplemented from time to time.

The Contractor agrees to inform, in writing, appropriate recruitment agencies in the area, including employment agencies, placement bureaus, colleges, universities, and labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, sex affectional or sexual orientation, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.

The Contractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by applicable Federal Law and applicable Federal Court decisions.

The Contractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age,

creed, color, national origin, ancestry, marital status, sex affectional or sexual orientation, and conform with the applicable employment goals, consistent with the status and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal Court decisions.

The Contractor shall furnish such reports or other documents to the Affirmative Action Office as may be requested by the Office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Affirmative Action Office for conducting a compliance investigation pursuant to Subchapter 10 of the New Jersey Administrative Code (N.J.A.C. 17:27).

C. **Americans with Disabilities Act:** The Contractor shall abide by the provisions of the Americans with Disabilities Act, 42 U.S.C. , Sec. 12101, et seq.

D. **Bidders Warranty:** By submitting a proposal in response to the RFP, the bidder warrants and represents that no person or selling agency has been employed or retained to solicit or secure the Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. The penalty for breach or violation of this provision may result in termination of the contract award without the Authority being liable for damages, costs and/or attorney fees or, in the Authority's discretion, a deduction from the Contract price or consideration the full amount or such commission, percentage, brokerage or contingent fee.

E. **Standards Prohibiting Conflicts of Interest:** The following prohibitions shall apply to all contracts made with the Authority.

1. No Contractor shall pay, offer to pay, or agree to pay, either directly or indirectly, any fee, commission, compensation, gift, gratuity or other thing of value of any kind to any officer or employee of the State or the Authority, or special State officer or employee as defined in N.J.S.A. 52:13D-13b and e, or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13f of any such officer or employee, or partnership, firm or corporation with which they are employed or associated or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g.
2. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by an officer or employee of the Authority from any State Bidder or Contractor shall be reported in writing forthwith by the vendor to the Attorney General.
3. No Contractor may, directly or indirectly, undertake any private business, commercial or entrepreneurial relationship with, whether or not pursuant to

employment, contract or other agreement express or implied, or sell any interest in such Contractor to any officer or employee of the Authority or special State officer or employee, or having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Authority or with any person, firm or entity with which he is employed or associated or in which he has an interest within the meaning of N.J.S.A. 52:13D-13g.

4. No Contractor shall influence, or attempt to influence or cause to be influenced any officer or employee of the Authority in his official capacity in any manner which might tend to impair the objectivity or independence or judgment of said officer or employee.
5. No Contractor shall cause or influence, or attempt to cause or influence, any officer or employee of the Authority to use, or attempt to use, his official position to secure unwarranted privileges or advantages for the Contractor or any other person.
6. It is agreed and understood that the Authority reserves the right to determine whether a conflict of interest or the appearance of a conflict of interest exists which would under State law adversely affect or would be contrary to the best interest of the Authority.

VI. **Requirements of Chapter 51, Executive Order 117 (Corzine 2008) and Executive Order 7 (Christie 2010) (Also Referred to as “Executive Order 134 or Pay to Play Restrictions, N.J.S.A. 19:44A-20.13-25”) and Ownership Disclosure Form:** In order to safeguard the integrity of State government procurement by imposing restrictions to insulate the award of State contracts, including retention agreements, from political contributions that pose the risk of improper influence, purchase of access, or the appearance thereof, the Legislature enacted P.L. 2005, c.51 (codified at N.J.S.A. 19:44A-20.13-25) (“Chapter 51”), on March 22, 2005, effective retroactive to October 15, 2004, superseding the terms of Executive Order No. 134 (McGreevey). In addition, on September 24, 2008, Governor Corzine issued Executive Order No. 117, effective on November 15, 2008 (“EO 117”) setting forth additional limitations on the ability of the executive branch agencies to contract with individuals or entities who have made or solicited certain contributions. Then on January 20, 2010, and effective the same day, Governor Christie issued Executive Order No. 7 (“EO 7”) setting forth additional limitations on the ability of executive branch agencies to contract with individuals or entities who have made or solicited certain contributions. Pursuant to the requirements of Chapter 51, EO 117 and EO 7, the terms and conditions set forth in this section are material terms of any contract resulting from the RFP:

Ownership Disclosure Form (full version) – is required to be completed in accordance with N.J.S.A. 52:25-24.2 which states “no corporation or partnership shall be awarded any contract nor shall any agreement be entered into for the performance of any work or the furnishing of any materials or supplies, the cost of which is to be paid with or out of

any public funds, by the State, or any county, municipality or school district, or any subsidiary or agency of the State, or of any county, municipality or school district, or by any authority, board, or commission which exercises governmental functions, unless prior to the receipt of the bid or accompanying the bid, of said corporation or said partnership, there is submitted a statement setting forth the names and addresses of all stockholders in the corporation or partnership who own 10% or more of its stock, of any class or of all individual partners in the partnership who own a 10% or greater interest therein, as the case may be. If one or more such stockholder or partner is itself a corporation or partnership, the stockholders holding 10% or more of that corporation's stock, or the individual partners owning 10% or greater interest in that partnership, as the case may be, shall also be listed. The disclosure shall be continued until names and addresses of every noncorporate stockholder, and individual partner, exceeding the 10% ownership criteria established in this act, has been listed. The required form is available for review on the State's Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.shtml#eo134> under the section "Disclosure Forms and Instructions".

A. **Definitions:** For the purpose of this section, the following shall be defined as follows:

1. **Contribution** – means a contribution reportable as a recipient under The New Jersey Campaign Contributions and Expenditures Reporting Act, P.L. 1973, c83 (C.19:44A-1 et seq.), and implementing regulations set forth at N.J.A.C. 19:25-7 and N.J.A.C. 19:25-10.1 et seq. Contributions in excess of \$300 during a reporting period are deemed "reportable" under these laws.
2. **Business Entity** – means any natural or legal person, business corporation, professional services corporation, Limited Liability Company, partnership, limited partnership, business trust, association or any other legal commercial entity organized under the laws of New Jersey or any other state or foreign jurisdiction. The definition of a business entity includes:
 - a) all principals who own or control more than 10 percent of the profits or assets of a business entity or 10 percent of the stock in the case of a business entity that is a corporation for profit, as appropriate and for a for profit entity, the following:
 - (i) in the case of a corporation: the corporation, any officer of the corporation, and any person or business entity that owns or controls 10% or more of the stock of the corporation;
 - (ii) in the case of a general partnership: the partnership and any partner;

- (iii) in the case of a limited partnership: the limited partnership and any partner;
 - (iv) in the case of a professional corporation: the professional corporation and any shareholder or officer;
 - (v) in the case of a limited liability company: the limited liability company and any member;
 - (vi) in the case of a limited liability partnership: the limited liability partnership and any partner;
 - (vii) in the case of a sole proprietorship: the proprietor; and
 - (viii) in the case of any other form of entity organized under the laws of New Jersey or any other state or foreign jurisdiction: the entity and any principal, officer, or partner thereof;
- b) any subsidiaries directly or indirectly controlled by the business entity;
 - c) any political organization organized under 26 U.S.C.A. § 527 of the Internal Revenue Code that is directly or indirectly controlled by the business entity, other than a candidate committee, election fund, or political party committee;
 - d) if a business entity is a natural person, that persons spouse or civil union partner, or child residing in the same household provided, however, that, unless a contribution made by such spouse, civil union partner, or child is to a candidate for whom the contributor is entitled to vote or to a political party committee within whose jurisdiction the contributor resides unless such contribution is in violation of section 9 of Chapter 51; and
 - e) any labor union, labor organization, and any political committee formed by a labor union or labor organization if one of the purposes of the political committee is to make political contributions.

B. Certification and Disclosure Requirements

1. The Authority shall not enter into a contract to procure from any Business Entity services or any material, supplies or equipment, or to acquire, sell or lease any land or building, where the value of the transaction exceeds \$17,500, if that Business Entity has solicited or made any contribution of

money, or pledge of contribution, including in-kind contributions to a candidate committee and/or election fund of any candidate for or holder of the public office of Governor or Lieutenant Governor, or to any State, county political party, or to a legislative leadership or municipal political party or committee during certain specified time periods.

2. Prior to awarding any contract or agreement to any Business Entity, the Business Entity responding to the RFP shall submit with their Proposal the Vendor Certification and Disclosure of Political Contributions form, certifying that no contributions prohibited by Chapter 51 have been solicited or made by the Business Entity and reporting all contributions the Business Entity made during the preceding four years to any political organization under 26 U.S.C.A. § 527 of the Internal Revenue Code that also meets the definition of a “continuing political committee” within the means of N.J.S.A. 19:44A-3(n) and N.J.A.C. 19:25-1.7. The required form and instructions are available for review on the State’s Purchase Bureau website at <http://www.state.nj.us/treasury/purchase/forms.shtml#eo134>. Failure to submit the required form will preclude award of a contract under this RFP, as well as future contract opportunities.
3. Further, the Contractor is required, on a continuing basis, to report to the Authority any contributions and solicitations it makes during the term of the contract, and any extension(s) thereof, at the time any such contribution or solicitation is made.
4. Contractors failure to submit the required forms will preclude the Authority’s execution of the Contract. The Authority will provide to the State Treasurer or his designee for their review the Disclosures submitted by the Bidder pursuant to this section, as well as any other pertinent information concerning the contributions or reports thereof by the intended Contractor, prior to award, or during the term of the contract. If the State Treasurer determines that any contribution or action by the Contractor violated Chapter 51, EO 117 or EO 7 the State Treasurer shall disqualify the Contractor from award of such contract. If the State Treasurer or his designees determines that any contribution or action constitutes a breach of contract that poses a conflict of interest, pursuant to Chapter 51, EO 117 and EO 7, the State Treasurer shall disqualify the Contractor from award of such contract.

C. Breach of Terms of Chapter 51, EO 117 and EO 7 is a Breach of Contract

It shall be a breach of the terms of the contract for the Business Entity to do any of the following:

1. make or solicit a contribution in violation of Chapter 51, EO 117 and EO 7;

2. knowingly conceal or misrepresent a contribution given or received;
3. make or solicit contributions through intermediaries for the purpose of concealing or misrepresenting the source of the contribution;
4. make or solicit any contribution on the condition or with the agreement that it will be contributed to a campaign committee or any candidate or holder of the public office of Governor, or Lieutenant Governor, or to any State, county or municipal party committee, or county party committee;
5. engage or employ a lobbyist or consultant with the intent or understanding that such lobbyist or consultant would make or solicit any contribution, which if made or solicited by the business entity itself, would subject that entity to the restrictions of Chapter 51, EO 117 and EO 7;
6. fund contributions made by third parties, including consultants, attorneys, family members, and employees;
7. engage in any exchange of contributions to circumvent the intent of Chapter 51, EO 117 and EO 7; or
8. directly or indirectly through or by any other person or means, do any act which would subject that entity to the restrictions of Chapter 51, EO 117 and EO 7.

VII. **New Jersey Business Registration:** Pursuant to N.J.S.A. 352:32-44, entities providing goods or services to the Authority must be registered with the New Jersey Department of the Treasury, Division of Revenue. Effective September 1, 2004, pursuant to an amendment to N.J.S.A. 52:32-44, State and local entities (including the Authority) are prohibited from entering into a contract with an entity unless the firm has provided a copy of its business registration certification (or interim registration) as part of its response. If the firm is not already registered with the New Jersey Division of Revenue, the form should be completed, online, at the Division of Revenue website: www.state.nj.us/treasury/revenue/index.html.

VIII. **Termination of the Contract Award:** An Authorized Officer of the Authority reserves the right, in their sole discretion to terminate the contract award during the duration of the Contract, without penalty, included but not limited to the following provisions:

- A. **Change of Circumstances:** Where circumstances change and/or the needs of the Authority change, or the Contract is otherwise deemed by the Authority to no longer be in the public interest, the Authority may terminate the contract award upon no less than thirty (30) days notice to the Contractor. In the event of such a termination of the

contract award, the Contractor shall furnish to the Authority, free of charge, such close-out reports as may reasonably be required.

B. For Cause:

1. Where a Contractor fails to perform or comply with the Contract, the Authority may terminate the contract award upon ten (10) days notice to the Contractor.
2. The Authority's right to terminate the contract award for cause includes violation of state and federal law (as demonstrated by the Contractor's admissions of same or a final decision of an appropriate decision-making body), or any reason related to the ability of the Contractor to fulfill its contractual obligations. The Authority may also terminate any contract with a federally debarred contractor or a contractor which is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

C. Upon a termination of the contract award under this or any other paragraph herein, the Contractor shall be entitled to receive as full compensation for services rendered in the date of termination that portion of the fee which the services actually and satisfactorily performed by it, as determined by an Authorized Officer of the Authority, shall bear to the total services contemplated under the Contract, less payments previously made.

D. Upon termination of the contract award, the Authority may acquire the services which are the subject of the Contract from another source and may charge the Contractor whose contract award has been terminated the difference in price, and the said Contractor shall be liable for same.

IX. **Contractor Compensation:** The Contractor shall submit an invoice on a quarterly basis. Payment will not be made until an Authorized Officer of the Authority has approved payment.

X. **Contractual Notice of State Vendor Set-Off For State Tax (P.L. 1995, c. 159):** Please be advised that, pursuant to L. 1995, c. 159, effective January 1, 1996 and notwithstanding any provision of the law to the contrary, whenever any taxpayer, partnership or S Corporation under contract to provide goods or services or construction projects to the State of New Jersey or its agencies or instrumentalities, including the legislative and judicial branches of the State government, is entitled to payment for those goods or services at the same time a taxpayer, partner or shareholder of that entity is indebted for any State tax, the Director of the Division of Taxation shall seek to set off that taxpayer's or shareholder's share of the payment due the taxpayer, partnership or S corporation. The amount set off shall not allow for the deduction of any expenses or other deductions which might be attributable to the taxpayer, partner or shareholder subject to set-off under this act.

The Director of the Division of Taxation shall give notice of the set-off to the taxpayer and provide an opportunity for a hearing within 30 days of such notice under the procedures for protests established under N.J.S.A. 59:49-18. No requests for conference, protestor subsequent appeal to the Tax Court from any protest under this section shall stay the collection of indebtedness. Interest that may be payable by the State to the taxpayer, pursuant to L. 1987, c. 184 (c. 52:32-35.), shall be stayed.

- XI. **Notices:** All notices required under the Contract shall be in writing and shall be validly and sufficiently served by the Authority upon the Contractor, and vice versa, if addressed and mailed by certified mail to the addressee set forth in the Contract. Notice to the Authority shall be mailed to the following address:

Overnight Delivery Address:
Station Plaza, Building #4, Floor #4
22 South Clinton Avenue
Trenton, NJ 08609-1212

Mailing Address:
P.O. Box 366
Trenton, NJ 08625-0366

- XII. **Claims:** All claims against the Authority by the Contractor concerning interpretation of the Contract, Contractor performance and /or termination of the contract award shall be subject to the New Jersey Tort Claims Act N.J.S.A. 59:1-1, et seq. and the New Jersey Contractual Liability Act , N.J.S.A. 59:13-1, et seq.
- XIII. **Applicable Law:** This agreement and any and all litigation arising therefrom or related thereto shall be governed by the applicable law, regulations and rules of evidence of the State of New Jersey without reference to conflict of laws principles.